

## REMARKS

Applicants have thoroughly considered the Examiner's remarks in the December 17, 2008 Office action and have amended the application to more clearly set forth aspects of the invention. This Amendment C amends claims 1, 4, 5, 7, 10, 11, 23, and 38. Claims 2, 3, 6, 8, 9, 12, and 42 have been canceled. No new matter has been added.

Claims 1, 4, 5, 7, 10, 11, 13, 14, 16, 17, 19-24, 26, 27, and 38-41 are thus presented in the application for further examination. Reconsideration of the application as amended and in view of the following remarks is respectfully requested.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 1-27 and 38-42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 20040057348 to Shteyn et al. (Shteyn) in view of U.S. Patent No. 6,915,176 to Novelli et al (Novelli) and in further view of U.S. Patent Publication No. 20030131715 to Georges (Georges). Applicants respectfully disagree.

#### **A. Claims 1 and 7**

Claim 1 is directed to a method for playing audio tracks on a computing device according to a globally relevant playlist. As set forth in the claim, the globally relevant playlist "referenc[es] a plurality of audio tracks and includes a global track identifier filed and a source field." The "global track identifier field includes a global track identifier associated with each of the audio tracks." And the "source field includes information for identifying a remote source where each of the audio tracks . . . that are locally inaccessible to the computing device is located." The method includes "selecting a first track of the plurality of audio tracks referenced by the globally relevant playlist" and "determining whether the first track is locally accessible to the computing device." The "first track [is] associated with a first global identifier . . . generated as a function of the contents of the first track to uniquely identify the contents of the first track." The method also includes "retrieving the first track locally from the computing device and playing the retrieved first track on the computing device" if the first track is determined to be locally accessible to the computing device. On the other hand, if the first track is determined to be locally inaccessible to the computing device, claim 1 recites "obtaining the first track from the

remote source identified via the source field and playing the obtained first track on the computing device."

Thus, claim 1 highlights that each track of the globally relevant playlist has a global track identifier (GTID) so that "each track of the playlist is uniquely identifiable, irrespective of the computer, or computer configuration, where the playlist is created." (Application, page 7, lines 15-16). More specifically, the GTID is "generated as a function of the contents of the track, sometimes referred to as a 'fingerprint' of the track." (Application, page 10, line 30 - page 11, line 2). Accordingly, different encodings of the same recording have different GTIDs. (Application, page 11, lines 5-7). Furthermore, the method for playing audio tracks recited in claim 1 "take[s] full advantage of tracks already accessible to a user's computer" and "identif[ies] legitimate sources where a currently unavailable track may be obtained." (Application, page 7, lines 21-22). Thus, the method provides a user with a source from which to obtain a track when the user does not have a local copy of the track available for retrieval and playback.

The cited references, whether read alone or in combination, fail to teach each and every element of claim 1. In particular, as correctly pointed out by the Office, Shteyn fails to "describe a method/system in which the track identifier is a function of the track." (Office action, page 3). As such Shteyn fails to teach or suggest "selecting a first track . . . associated with a first global track identifier . . . [that is] generated as a function of the contents of the first track to uniquely identify the contents of the first track" and "determining whether the first track is locally accessible to the computing device according to the first global track identifier" as recited by claim 1.

Furthermore, Shteyn fails to teach or suggest a source field included in the playlist itself which identifies a remote source where an audio track is located for each of the tracks referenced by the playlist that are locally inaccessible to the computing device. Instead, as referenced by the Office (Office action, page 3), Shteyn merely notes that the computing device can be configured to search alternative sources to which it has access for a particular track, rather than being provided with the specific location of the particular track. Specifically, Shteyn teaches that "[i]f the destination system 260 [(e.g., computing device)] has network access to alternative sources of content material, the system 260 can be configured to search the storage area 280 for matching content items, and then searching the alternative sources if a matching content item is not found within the storage area 280. If a matching content item is subsequently found, the system 260

downloads a copy of the content item, preferably as a 'background task', and updates the playlist A' 290 accordingly." (Shteyn, paragraph [0033]).

Thus, Shteyn also fails to teach or suggest a globally relevant playlist that includes a "source field [having] information for identifying a remote source where each of the audio tracks . . . that are locally inaccessible to the computing device is located" as recited by claim 1. Likewise, Shteyn fails to teach or suggest "obtaining the first track from the remote source identified via the source field" if the first track is determined to be locally inaccessible to the computing device as recited by claim 1.

Novelli and Georges fail to cure the deficiencies of Shteyn. For example, the Office points out that Novelli teaches that "tracks may be identified by their ID3 tag or by a disk and track identifier or other information known to the PC." Although Novelli fails to teach that track identifier is a function of the content of the track, the Office asserts that it would have been obvious "to construct a method/system in which the track identifier is a function of the track." Applicants respectfully disagree. As explicitly pointed out in Shteyn, the invention disclosed therein is "premised on the observation that, in most cases, when a user creates a playlist the entirety of the content material identified in the playlist is not essential." (Shteyn, paragraph [0021]). Because the invention of Shteyn is premised on generally approximating the content of the playlist, it would not be obvious to one skilled in the art to "create a more unique identifier" in order to more accurately "correlate the identifier with that particular track" as proposed by the Office. (Office action, page 4). Thus, Novelli fails to suggest "selecting a first track . . . associated with a first global track identifier . . . [that is] generated as a function of the contents of the first track to uniquely identify the contents of the first track" and "determining whether the first track is locally accessible to the computing device according to the first global track identifier" as recited by claim 1.

Novelli merely teaches downloading user-selected tracks from one device to another. Novelli fails to distinguish between locally accessible and locally inaccessible tracks. Thus, Novelli fails to teach or suggest a globally relevant playlist that includes a "source field [having] information for identifying a remote source where an audio track is located for each of the audio tracks referenced by the globally relevant playlist that are locally inaccessible to the computing device" as recited by claim 1. At least because Novelli fails to distinguish between locally accessible and locally inaccessible tracks, this reference does not teach or suggest "obtaining the

first track from the remote source identified via the source field" if the first track is determined to be locally inaccessible to the computing device as recited by claim 1.

Georges also fails to cure the deficiencies of Shteyn and Novelli. The Office asserts Georges merely to illustrate that a recording can be encoded using different formats. Thus, Georges, as cited by the Office, fails to teach or suggest "selecting a first track . . . associated with a first global track identifier . . . [that is] generated as a function of the contents of the first track to uniquely identify the contents of the first track" and "determining whether the first track is locally accessible to the computing device according to the first global track identifier" as recited by claim 1. Additionally, Georges fails to teach or suggest a globally relevant playlist that includes a "source field [having] information for identifying a remote source where each of the audio tracks . . . that are locally inaccessible to the computing device is located" and "obtaining the first track from the remote source identified via the source field" if the first track is determined to be locally inaccessible to the computing device as recited by claim 1. Moreover, the additional reference mentioned at page 4 of the Office action, Cook, U.S. Patent No. 6,338,044, likewise merely illustrates specifying a file format and is considered no more pertinent than Georges.

As such, Shteyn, Novelli, Georges, and Cook, alone or in combination, fail to disclose or suggest each and every limitation of claim 1. Applicants submit that the rejection of claim 1 under 35 U.S.C. §103(a) should be withdrawn.

Claim 7 includes limitations similar to those of claim 1. Accordingly, Applicants submit that claim 7 is allowable for at least the same reasons that claim 1 is allowable. In particular, amended claim 7 recites a method embodied in computer-executable instructions stored on a tangible computer-readable storage medium. The method of claim 7 includes, among other things, "selecting a first track of a plurality of audio tracks referenced by a globally relevant playlist" wherein the globally relevant playlist includes a global track identifier field containing "a global track identifier associated with each of the audio tracks referenced by the globally relevant playlist." According to claim 7, the globally relevant playlist also includes a source field that includes "information for identifying a remote source where each of the audio tracks referenced by the globally relevant playlist that are locally inaccessible to the computing device is located." By comparing a first global track identifier generated as a function of the contents of the first track to uniquely identify its contents to each of a plurality of local global track

identifiers, the method of claim 7 permits "retrieving the first track locally from the computing device and playing the retrieved first track on the computing device" if the first track is locally accessible and "obtaining the first track from the remote source identified via the source field and playing the obtained first track on the computing device" if the first track is locally inaccessible. Because the cited art, alone or in combination, fails to show each and every limitation of claim 7. Applicants submit that the rejection of claim 7 under 35 U.S.C. §103(a) should be withdrawn.

In addition, Applicants submit that the claims rejected under 35 U.S.C. §103(a) depending from independent claims 1 and 7 are allowable for at least the reasons that the independent claims from which they depend are allowable.

#### B. Claims 13 and 23

Claim 13 is directed to a method for downloading tracks from a computing device onto a player device according to a globally relevant playlist. Each track of the playlist is associated with global track identifier to uniquely identify the track, including its encoding format. Accordingly, different encodings of the same recording have different global track identifiers. (Application, page 11, lines 5-7). Therefore, users can identify and obtain a desired encoding based on a particular global track identifier or obtain an alternatively encoded track when a track having the selected format is not available. (Application, page 11, lines 9-16).

To this end, the method of claim 13 includes, in part, "selecting a first track encoded in a first format . . . associated with a first global identifier" and "determining whether the first track encoded in the first format is locally accessible to the computing device according to the first global track identifier." "[I]f . . . the first track encoded in the first format is locally accessible to the computing device, downloading the first track encoded in the first format from the computing device to the player device." On the other hand, "if . . . the first track encoded in the first format is not locally accessible to the computing device, determining a second global track identifier identifying the first track encoded in a second format" and "determining whether the first track encoded in the second format is locally accessible to the computing device according to the second global track identifier." If the first track encoded in the second format is locally accessible to the computing device, the method includes "downloading the first track encoded in the second format from the computing device to the player device."

The Office fails to point to any portions of Shteyn, Novelli, Georges, or Cook which teach using an identifier to distinguish between different formats of a track. In particular, the Office correctly notes that Shteyn fails to teach specifying a track format. (Office action, page 4). Novelli is also completely silent on the format of a track. The Office asserts that Georges and Cook teach that audio tracks can have different encoding formats. (Office action, page 4).

Specifically, the Office points to paragraph [0103] of Georges which teaches "it is possible to use different sample recording formats that together provide a range of size/performance options. For example, very high quality sample encoding format may take more space on the storage medium, while a relatively low quality encoding format may take less space. Also, different formats may be suited for a particular musical Style, etc." Thus, while Georges teaches that different formats have different advantages, Georges fails to teach or suggest associating distinct global identifiers with different formats of a track. The Office points to the portion of Cook (col. 6, lines 35-40) which mentions that "track files can be provided and used in the present invention in any useful format, includ[ing] newer, more efficient formats that become available in the future." Thus, Cook also fails to teach or suggest associating distinct global identifiers with different formats of a track. Thus, the cited references fail to teach or suggest that "the first track encoded in the first format [is] associated with a first global track identifier" whereas "a second global track identifier identifi[es] the first track encoded in a second format" as recited by claim 13.

Furthermore, even if Georges or Cook could be interpreted to teach associating distinct global identifiers with different formats of a track, Shteyn fails to teach or suggest a method for determining which of the differently formatted tracks should be retrieved. For example, the Shteyn reference fails to teach or suggest "determining whether the first track encoded in the first format is locally accessible to the computing device according to the first global track identifier" and "if . . . the first track encoded in the first format is not locally accessible to the computing device, determining a second global track identifier identifying the first track encoded in a second format" as recited by claim 13 in order to locate the first track. Moreover, it would not be obvious to modify Shteyn to include such features. As discussed above, Shteyn explicitly points out that the invention disclosed therein is "premised on the observation that, in most cases, when a user creates a playlist the entirety of the content material identified in the playlist is not essential." (Shteyn, paragraph [0021]). Because the invention of Shteyn is premised on generally

approximating the content of the playlist, it would not be obvious to one skilled in the art to require distinct identities for different encodings of the same track.

In view of the foregoing, Applicants submit that the rejection of claim 13 under 35 U.S.C. §103(a) should be withdrawn.

Claim 23 is directed to a tangible computer-readable storage medium having computer-executable instructions for carrying out a method for downloading tracks from a computer to a player device. The method of claim 23 includes "selecting a first track encoded in a first format . . . associated with a first global track identifier" and "determining whether the first track encoded in the first format is locally accessible to the computing device according to the first global track identifier." "[I]f . . . the first track encoded in the first format is locally accessible to the computing device, downloading the first track encoded in the first format from the computing device to the player device." On the other hand, "if . . . the first track encoded in the first format is not locally accessible to the computing device, determining a second global track identifier identifying the first track encoded in a second format" and "determining whether the first track encoded in the second format is locally accessible to the computing device according to the second global track identifier." If the first track encoded in the second format is locally accessible to the computing device, the method includes "downloading the first track encoded in the second format from the computing device to the player device." Thus, claim 23 includes limitations similar to those of claim 13. Accordingly, Applicants submit that claim 23 is allowable for at least the same reasons that claim 13 is allowable.

In addition, Applicants submit that the claims rejected under 35 U.S.C. §103(a) that depend from independent claims 13 and 23 are allowable for at least the reasons that the independent claims from which they depend are allowable.

### C. Claim 38

Claim 38 recites a method comprising, among other elements "selecting a first global track identifier . . . [that] identifi[es] a first track encoded in a first format" and "determining whether the first track encoded in the first format is locally accessible to the computing device according to the first global track identifier." "[I]f the first track encoded in the first format is determined to be locally accessible to the computing device, retrieving the first track encoded in the first format locally from the computing device." On the other hand, "if the first track

encoded in the first format is determined to be locally inaccessible to the computing device", "determining a second global track identifier identifying the first track encoded in a second format." "[I]f the first track encoded in the second format is determined to be locally accessible to the computing device, retrieving the first track encoded in the second format locally from the computing device."

Thus, claim 38 includes limitations similar to those of claim 13. Claim 38 also recites that "if the first track encoded in the second format is determined to be locally inaccessible to the computing device, obtaining the first track encoded in the first format from the remote source identified via the source field and playing the obtained first track on the computing device." Thus, for the reasons discussed in connection with claim 13 and the reasons discussed in connection with claim 1, Applicants respectfully submit that claim 38 is allowable. Likewise, Applicants respectfully submit that the claims rejected under 35 U.S.C. §103(a) that depend from independent claim 38 are allowable for at least the reasons that the independent claim 38 from which they depend is allowable.



**Conclusion**

Applicants submit that the claims are allowable for at least the reasons set forth herein. Applicants thus respectfully submit that claims 1, 4, 5, 7, 10, 11, 13, 14, 16, 17, 19-24, 26, 27, and 38-41 as presented are in condition for allowance and respectfully request favorable reconsideration of this application.

Although the prior art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited aspects of the invention. The fact that Applicants may not have specifically traversed any particular assertion by the Office should not be construed as indicating Applicants' agreement therewith.

**Applicants wish to expedite prosecution of this application. If the Examiner deems the application to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the application in condition for allowance.**

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment of any required fee during the entire pendency of this application to Deposit Account No. 19-1345.

Respectfully submitted,

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